27 June 2000

Original: English

Preparatory Commission for the International Criminal Court
Working Group on Rules of Procedure and Evidence
New York
13-31 March 2000
12-30 June 2000
27 November-8 December 2000

Report of the Working Group

Chapter 7
Trial procedure

Rule 6.19
Record of the proceedings transmitted by the Pre-Trial Chamber

1. The Registrar shall maintain the record of the proceedings transmitted by the Pre-Trial Chamber, pursuant to rule 5.18, sub-rule 10.

2. Subject to any restrictions concerning confidentiality and the protection of national security information, the record may be consulted by the Prosecutor, the defence, the representatives of States when they participate in the proceedings, and the victims or their legal representatives participating in the proceedings pursuant to rules 6.30 to 6.30 *ter*.

Rule 6.10
Status conferences

1. Promptly after it is constituted, the Trial Chamber shall hold a status conference in order to set the date of the trial. The Trial Chamber, on its own motion, or at the request of the Prosecutor or the defence, may postpone the date of the trial. The Trial Chamber shall notify the trial date to all those participating in the proceedings. The Trial Chamber shall ensure that this date and any postponements are made public.

2. In order to facilitate the fair and expeditious conduct of the proceedings, the Trial Chamber may confer with the parties by holding status conferences as necessary.

00-50278 (E)

Rule 6.11
Motions challenging admissibility or jurisdiction

Challenges to the jurisdiction of the Court or the admissibility of the case at the commencement of the trial, or subsequently with the leave of the Court, shall be dealt with by the Presiding Judge and the Trial Chamber in accordance with the procedure specified in rule 5.19.

Rule 6.12
Motions relating to the trial proceedings

1. Prior to the commencement of the trial, the Trial Chamber on its own motion, or at the request of the Prosecutor or the defence, may rule on any issue concerning the conduct of the proceedings. Any request from the Prosecutor or the defence shall be in writing and, unless the request is for an ex parte procedure, served on the other party. For all requests other than those submitted for an ex parte procedure, the other party shall have the opportunity to file a response.

2. At the commencement of the trial, the Trial Chamber shall ask the Prosecutor and the defence whether they have any objections or observations concerning the conduct of the proceedings which have arisen since the confirmation hearings. Such objections or observations may not be raised or made again on a subsequent occasion in the trial proceedings, without leave of the Trial Chamber in this proceeding.

3. After the commencement of the trial, the Trial Chamber, on its own motion, or at the request of the Prosecutor or the defence, may rule on issues that arise during the course of the trial.

Rule 6.13
Medical examination of the accused

1. The Trial Chamber may, for the purpose of discharging its obligations under article 64, paragraph 8 (a), or for any other reasons, or at the request of a party, order a medical, psychiatric or psychological examination of the accused, under the conditions set forth in rule 5.11.

2. The Trial Chamber shall place its reasons for any such order on the record.

3. The Trial Chamber shall appoint one or more experts from the list of experts approved by the Registrar, or an expert approved by the Trial Chamber at the request of a party.

4. Where the Trial Chamber is satisfied that the accused is unfit to stand trial, it shall order that the trial be adjourned. The Trial Chamber may, on its own motion or at the request of the Prosecution or the defence, review the case of the accused. In any event, the case shall be reviewed every 120 days unless there are reasons to do otherwise. If necessary, the Trial Chamber may order further examinations of the accused. When the Trial Chamber is satisfied that the accused has become fit to stand trial it shall proceed in accordance with rule 6.10

Rule 6.15
Joint and separate trials

1. Persons accused jointly shall be tried together unless the Trial Chamber, on its own motion or at the request of the Prosecutor or the defence, orders that separate trials are necessary, in order to avoid serious prejudice to the accused, to protect the interests of justice or because a person jointly accused has made an admission of guilt and has been proceeded against in accordance with article 65, paragraph 2.

2. In joint trials, each accused shall be accorded the same rights as if such accused were being tried separately.

Rule 6.16
Record of the trial proceedings

1. In accordance with article 64, paragraph 10, the Registrar shall take measures to make, and preserve, a full and accurate record of all proceedings, including transcripts, audio- and video-recordings and other means of capturing sound or image.

2. A Trial Chamber may order the disclosure of all or part of the record of closed proceedings when the reasons for ordering its non-disclosure no longer exist.

3. The Trial Chamber may authorize persons, other than the Registrar, to take photographs, audio- and video-recordings and other means of capturing the sound or image of the trial.

Rule 6.17
Custody of evidence

The Registrar shall retain and preserve, as necessary, all the evidence and other materials offered during the hearing, subject to any order of the Trial Chamber.

Rule 6.25
Decision on admission of guilt

1. After having proceeded in accordance with article 65, paragraph 1, the Trial Chamber, in order to decide whether to proceed in accordance with article 65, paragraph 4, may invite the views of the Prosecutor and the defence.

2. The Trial Chamber shall then make its decision on the admission of guilt and shall give reasons for this decision, which shall be placed on the record.

Rule 6.18
Directions for the conduct of the proceedings and testimony

1. If the Presiding Judge does not give directions under article 64, paragraph 8, the Prosecutor and the defence shall agree on the order and manner in which the evidence shall be submitted to the Trial Chamber. If no agreement can be reached, the Presiding Judge shall issue directions.

2. In all cases, subject to article 64, paragraphs 8 (b) and 9, article 69, paragraph 4, and rule 6.29, sub-rule 5, a witness may be questioned as follows:

(a) A party that submits evidence in accordance with article 69, paragraph 3, by way of a witness, has the right to question that witness;

(b) The Prosecution and the defence have the right to question that witness about relevant matters related to the witness's testimony and its reliability, the credibility of the witness and other relevant matters;

(c) The Trial Chamber has the right to question a witness before or after a witness is questioned by a participant referred to in sub-rules 2 (a) or (b);

(d) The defence shall have the right to be the last to examine a witness.

3. Unless otherwise ordered by the Trial Chamber, a witness other than an expert, or an investigator if he or she has not yet testified, shall not be present when the testimony of another witness is given. However, a witness who has heard the testimony of another witness shall not for that reason alone be disqualified from testifying. When a witness testifies after hearing the testimony of others, this fact shall be noted in the record and considered by the Trial Chamber when evaluating the evidence.

Rule 6.22
Closure of evidence and closing statements

1. The Presiding Judge shall declare when the submission of evidence is closed.

2. The Presiding Judge shall invite the Prosecutor and the defence to make their closing statements. The defence shall always have the opportunity to speak last.

Rule 6.23
Deliberations

1. After the closing statements, the Trial Chamber shall retire to deliberate, in camera. The Trial Chamber shall inform all those who participated in the proceedings of the date on which the Trial Chamber will pronounce its decision. The pronouncement shall be made within a reasonable period of time after the Trial Chamber has retired to deliberate.

2. When there is more than one charge, the Trial Chamber shall decide separately on each charge. When there is more than one accused, the Trial Chamber shall decide separately on the charges against each accused.

Rule 6.21
Additional hearings on matters related to sentence or reparations

Pursuant to article 76, paragraphs 2 and 3, for the purpose of holding a further hearing on matters related to sentence and, if applicable, reparations, the Presiding Judge shall set the date of the further hearing. This hearing can be postponed, in exceptional circumstances, by the Trial Chamber, on its own motion or at the request of the Prosecutor, the defence or the legal representatives of the victims participating in the proceedings pursuant to rules 6.30 to 6.30 *ter* and, in respect of reparations hearings, those victims who have made a request under rule 6.31.

Rule 6.24
Delivery of the decisions of the Trial Chamber

1. Decisions of the Trial Chamber concerning admissibility of a case, the jurisdiction of the Court, criminal responsibility of the accused, or sentence and reparations shall be pronounced in public and, wherever possible, in the presence of

the accused, the Prosecutor, the victims or the legal representatives of the victims participating in the proceedings pursuant to rules 6.30 to 6.30 *ter*, and the representatives of the States which have participated in the proceedings.

2. Copies of all the above-mentioned decisions shall be provided as soon as possible to:

(a) All those who participated in the proceedings, in a working language of the Court;

(b) The accused, in a language he or she fully understands or speaks, if necessary to meet the requirements of fairness under article 67, paragraph 1 (f).